THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 24776 of 2006

Oral order:

The petitioner states that Child Development Project Director, ICDS Project, Devarakonda, Nalgonda, issued notification dated 23.12.2005 for filling up the posts of Anganwadi Workers/Helpers in the said project. According to the notification, the qualifications required for appointment to the post of Anganwadi Worker is – the candidate should be a daughter-in-law of the village, she should be aged not less than 21 years and not above 45 years, she should have passed S.S.C., and if S.S.C. pass candidates are not available, then S.S.C. fail candidates can apply.

The petitioner states that the post of Anganwadi Worker for Devathpalli Thanda, is reserved for S.T. category. The petitioner states that since she belongs to S.T. category, and since she possesses all the qualifications that are required for appointment to the post of Anganwadi Worker, in that she also worked as Teacher in Early Child Education Scheme, she along with the 6th respondent and on other lady, submitted their applications.

The petitioner states that even though she passed in the written examination and interview conducted by the official respondents on 06.02.2006 and 21.11.2006 respectively, to her utter surprise, they have selected an ineligible candidate, namely

6th respondent, who merely passed 8th class and also is not a daughter-in-law of the village. The petitioner states that the

6th respondent was selected because of political considerations, and that merit was given a complete goby.

Hence, the petitioner filed this writ petition to call for the records

and declare the action of the official respondents in selecting the 6th respondent for the post of Anganwadi Workers in respect of Devathpalli Thanda H/o. gonaboinapalli village, Dindi Mandal, Nalgonda District, as illegal and arbitrary, and consequently direct the official respondents to appoint the petitioner as Anganwadi Workers in respect of the said village.

On 29.11.2006, this Court while admitting the writ petition, ordered notice on the stay application. On 21.06.2007, this Court directed the learned Government Pleader appearing on behalf of the official respondents to produce the original record relating to the selection of the 6th respondent. When the writ petition was taken up for hearing on 09.07.2007, the learned Assistant Government Pleader represented that despite intimation about production of the record, the official respondents are not responding, and in view of the said statement, this Court directed appearance of the official respondents with the relevant records on 18.07.2007. On the said day, the official respondents neither appeared in person, as directed, nor produced the record. However, considering the assurance given by the learned Assistant Government Pleader, the matter was adjourned to 25.07.2007. On 25.07.2007, the official respondents appeared in person before the Court. On the said day, when this Court pointed out about the number of writ petitions being filed by the unsuccessful candidates assailing the selections contending that they are being made contrary to the Rules and guidelines, Mrs. Vasudha Mishra, the Secretary in-charge of the post of Principal Secretary, representing the 1st respondent, had made the following submission, which formed part of the order dated 25.07.2007 of this Court, and the same reads as follows:

The Secretary, who is in-charge of the post of Principal Secretary, representing the 1st respondent, submitted that since the unsuccessful candidates

have made allegations to the effect that the official respondents have selected an appointed unofficial candidates, contrary to the Rules and guidelines, she will review all the appointments, which are subject-matters of dispute in the several writ petitions that are pending before this court, and sought four weeks time to undertake the said exercise.

The 1st respondent further assured that they will file counter affidavits, after reviewing the impugned appointments in the light of the Rules and guidelines, and considering the said submission, this Court gave the 1st respondent four weeks time to review the appointments, and place the material before this Court along with the counters, and posted the present writ petition for filing counter and production of relevant record on 30.07.2007. Thereafter, the matter underwent three adjournments. On 01.08.2007, the learned Government Pleader for Women Development and Child Welfare submitted that she advised the official respondents to review the matter in view of the lacunae in the selection process and sought time.

The Project Director, namely the 4th respondent filed counter on behalf of the official respondents, justifying the selection of the 6th respondent, and contending that selection has been made as per the procedure and based on the marks obtained in the written test and interview. Likewise, the 6th respondent also filed counter justifying her selection.

Heard the learned counsel for the petitioner, the learned Government Pleader for Women Development and Child Welfare for the official respondents and the learned counsel for the 6th respondent, and perused the record relating to the selection.

The Commissioner, Women's Development and Child Welfare Department, A.P., Hyderabad in Circular Memo No.20888/K3/94, dated 09.02.1995, issued instructions and *inter alia* laid down the criteria with respect to appointments of Anganwadi Workers/Helpers,

and the relevant instructions read as follows:

1. The Anganwadi Workers and Helpers must be selected from the same village where the Anganwadi Centre has to be located and should be a person acceptable to the community. This is the most important criteria which should not be violated.
2. She must be a married lady whose family belongs to the village community.
3. To the extent possible, effort should be made to select a person with 10th class education from the same village. In the case of villagers where local women with 10th class education are not available the qualification may be relaxed to 9th, 8th and so on. It must be noted that even an illiterate local candidate can be selected instead of an educated non-local person. No non-local candidate should be selected on the plea that she has higher educational qualification or that she agreed to reside in the village or other considerations.

The Project Director, Child Development, ICDS Project, Devarakonda, Nalgonda District, issued notification for filling up Anganwadi Workers/Helpers in ICDS Project, Devarakonda area. As per the said notification, the candidates with the following qualifications are entitled to apply – she should be aged not less than 21 years and not above 45 years, she should be the daughter-in-law of the village, she should have passed 10th class, in case 10th class pass candidates are not available in the village, then 10th class fail candidates also can apply, she should be acceptable to the villagers, she should encourage participation of the villagers in the anganwadi programmes, and she should mingle with children.

Admittedly, the petitioner, the 6th respondent and one other lady applied for the post of Anganwadi Worker in respect of Devathpalli Thanda, which is reserved for S.T. candidate. The petitioner, admittedly, passed 10th class, while the 6th respondent studied only upto 8th class. So on the score of qualification, the 6th respondent is not eligible for appointment as Anganwadi Worker, and the official respondents do not dispute this fact. One of the important criteria prescribed for selection is that the candidate should

be the daughter-in-law of the village. Admittedly, the petitioner is the daughter-in-law of the village, while the

6th respondent is said to be a resident of Kalwakurthi village in Mahaboobnagar. When the notification prescribed that the candidate should be the daughter-in-law of the village, I fail to understand how the official respondents could have selected the 6th respondent, who is said to be not a local to the village. The

6th respondent, leave alone being non-local to the village, is non-local to the District itself. Even though the 6th respondent did not satisfy the educational qualification and the condition of being a daughter-in-law of the village, yet for the reasons best known to them, the official respondents, by adopting a peculiar procedure (written test and oral interview), which in fact, is not provided either under the notification or the guidelines framed by the official respondents in that regard, have selected the 6th respondent, whose application, in fact, was liable for rejection at the stage of scrutiny itself.

According to the notification issued by the Project Director, the date of interview will be notified either in the newspapers or the eligible candidates will be issued call letters. Thereby, meaning that the selection would be based only on oral interview. However, the official respondents contrary to the notification issued by them, have conducted written test on 06.02.2006 and oral interview on 21.11.2006. When the notification prescribed that the selection would be based on oral interview, I fail to understand how the official respondents could have conducted written test for selection. The reason assigned by the official respondents that since large number of applications were received, they have conducted written test as well as interview cannot be accepted because only three applications were said to have been received by the official respondents for Anganwadi

Worker of Devathpalli Thanda.

Be that as it may, the 2nd respondent, namely the District Collector, District Women and Child Development Agency, Nalgonda, issued instructions as to the manner in which the written test for appointment to the posts of Anganwadi Workers should be conducted, duly indicating the maximum marks, under different heads. In relation to Villages, the marks fixed under different heads are - (a) Preferential Qualifications/Additional Qualifications:

10 Marks for Early Child Education (ECE) Workers,

05 Marks for Widows, 05 Marks for Experience (Ex.A.W., Helpers, Vidya Volunteer, Ex. CEC Women Volunteer); (b) 30 Marks for Written Test. Thus, it is clear that the maximum marks fixed for the qualifications and written test is 50. Apart from the 50 marks fixed for written test, the office note dated 24.10.2006, approved by the District Collector, shows that he had fixed 15 marks for oral test, and the highest marks secured candidate in (written + oral) i.e.,

(50 + 15 = 65) test will be selected as Anganwadi Worker.

The record produced by the official respondents shows that in the written test, the petitioner scored 18 marks, while the

6th respondent scored only (07) seven marks. The petitioner and the

6th respondent were called for interview to be held on 21.11.2006 at the R.D.Os. Office, Mirayalaguda. The Interview Board comprised of the three persons – Chairman and two members. The R.D.O. is the Chairman, Project Officer and the local MLA are the members. Admittedly, the maximum marks allotted for the interview by the District Collector is 15, which were to be shared equally by the Chairman and two members. The MLA, who is one of the members on the Interview Board and who was vested with the power of awarding (05) five marks, did not turn up to sit on the Interview Board, and in fact, addressed a

letter to the R.D.O. stating that due to personal inconvenience, he would not be sitting on the Interview Board, and the (05) five marks vested in him, be awarded by the Chairman and the other Member. The marks lists of the interview produced before the Court, shows that the Project Officer, awarded one (01) mark to the petitioner and seven (07) marks to the 6th respondent, while the R.D.O. awarded two (02) marks to the petitioner and eight (08) marks to the 6th respondent. When the Interview Board comprising the Chairman and two Members, were vested with the power of awarding only five marks each, I fail to understand, how one of the members, namely the M.L.A. could have delegated his power of awarding five (05) marks to the Chairman and the other Member, and how the Chairman and the said Member, could have awarded more marks than what they were entitled to award. Neither the power of delegation of awarding of marks to the other members nor the power of awarding marks of the delegatee, is vested in the Interview Board. The Chairman and Members of the Interview Board, are entitled to award marks not more than what they are entitled to under the Rules. Therefore, the delegation of marks by the M.L.A. to the Chairman and the other Member on the Interview Board, and the consequential awarding of marks by the delegates, namely the Chairman and Member, the marks vested in the M.L.A., is illegal and contrary to the Rules relating to the conduct of Interviews.

From the above, it is clear that the official respondents have made not only adopted a procedure different from the one prescribed, but in fact, has been made contrary to the Rules. Even though there is no written test prescribed, yet they have conducted written test, and the manner in which the marks vested in the M.L.A. were awarded by the R.D.O. and another Member, shows that they have awarded marks in a manner unknown to the Rules of interview. This apart, even though

the petitioner possess the requisite qualification and experience and is said to be the daughter-in-law of the village, and even though she fared well in the written test (which in fact is not prescribed as the mode of selection in the notification), yet the official respondents, for obvious reasons with a view to select the 6th respondent, who merely studied 8th class and not a daughter-in-law of the village, have deliberately and intentionally to favour her for political considerations, have awarded more marks to her in the interview, even though she scored less in the written test, which obviously is to ensure that when the marks scored by her in the written test are added up to the marks awarded to her in the interview, she would make up for the selection. Since the selection of the 6th respondent by the official respondent as Anganwadi Worker of Devathpalli Thanda, is fraught with illegalities, as pointed out above, her selection cannot be sustained, and the same is accordingly, set aside.

Accordingly the writ petition is allowed. There shall be directions to the official respondents to appoint the petitioner as Anganwadi Worker of Devathpalli Thanda. No costs.

Before parting with the case, I would like to place on record, that it is very unfortunate that neither the Assistant Government Pleader representing the official respondents nor the official respondents who were present in the Court were able to assist the Court about the manner in which the selection was made. The Project Officer, who was present in the Court, submitted that in pursuance of the directions of this Court, Mrs. Vasudha Mishra, Secretary in-charge of the post of Principal Secretary, has herself reviewed the appointment assailed in the writ petition. The counter filed by the official respondents does not disclose any details of the impugned selection, and the Court had to labour for itself to find out the truth. The manner in which the counter is

filed by the official respondents, justifying the selection of the 6th respondent shows that despite giving an undertaking before the Court, the Secretary has not reviewed the matter properly, and even without reviewing the matter, has given a clean chit with respect to the impugned selection.

_____

N.V. RAMANA, J.

Date: 6th September, 2007.

Note:

Mark a copy of this order to
The Chief Secretary,
Government of Andhra Pradesh,
Hyderabad.
(B/o)

KSR